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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,864	11/26/2003	John J. Pastrick	25794/04285	8609
24024	7590	01/13/2005	EXAMINER	
CALFEE HALTER & GRISWOLD, LLP 800 SUPERIOR AVENUE SUITE 1400 CLEVELAND, OH 44114			CHENG, JOE H	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/722,864	Applicant(s) PASTRICK ET AL.	
	Examiner Joe H. Cheng	Art Unit 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-33, 42 and 43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-33, 42 and 43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restriction

1. Applicant's election without traverse of Group I in October 25, 2004 is acknowledged. Claims 34-41 are withdrawn from further consideration by the examiner, 37 C.F.R. § 1.142(b) as being drawn to the nonelected invention Groups II and III. In addition, in response to the Amendment filed on October 25, 2004, claims 1-27 and 34-41 have been cancelled and claims 28-33, 42 and 43 are pending.

Claim Rejections - 35 USC § 103

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 28, 29, 31-33 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brewer et al (U.S. Pat. No. 6,263,238 B1) in view of Rockwell et al (U.S. Pat. No. 6,141,584). The broadly claimed structure can be interpreted as the automatic external defibrillator having a ventricular fibrillation detector of Brewer et al. Figs. 1-9 of Brewer et al broadly teaches the programmable training device for instructing a user on the appropriate medical steps for the operation of an automated external defibrillator (AED) device (10) comprising the processor (74) having control logic in response the input signals for outputting a simulated shock sequence of a shock cycle or no shock cycle (204, 216), the voice synthesizer (94, 34), the refrillate key (18) for interrupting the no shock cycle to the processor and the processor prompting the user that the simulated victim has a shockable rhythm. It is noted that the teaching of Brewer et al does not specifically discloses the programmable control panel located on the training device (as per claim 32) having two or more input devices (as per claims 28 and 42) which are toggle switches (as per claim 33), and outputting the appropriate medical steps for performing a shock cycle (as per claim 31) as required. However, Figs. 1-11 of Rockwell et al broadly teaches the programmable control panel (214) having two or more input device (20, 234) which are toggle switches for generating input signals to the processor (206), the processor having control logic in response the input signals for outputting a simulated shock sequence of a shock cycle or no shock cycle (208) and outputting the appropriate medical steps for performing a shock cycle during the interrupt. Hence, it would have been obvious to one of ordinary skill in the art to modify the device of Brewer et al with the features of the

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programmable control panel located on the training device having two or more toggle switches, and outputting the appropriate medical steps for performing a shock cycle during the interrupt as taught by Rockwell et al as both Brewer et al and Rockwell et al are directed to the programmable training device, so as to provide the input switches for inputting the desired shock or no shock function to the processor and for instructing the user on the appropriate medical steps for performing a shock cycle of the AED device.

5. Claims 30 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brewer et al (U.S. Pat. No. 6,263,238 B1) in view of Rockwell et al (U.S. Pat. No. 6,141,584) and further in view of Nova et al (U.S. Pat. No. 6,334,070 B1). It is noted that the teachings of Brewer et al and Rockwell et al do not specifically disclose the light emitting diodes as required. However, Figs. 1A-10J of Nova et al broadly discloses that such feature of the use of the light emitting diodes (15, 15a). Hence, it would have been obvious to one of ordinary skill in the art to modify the device of Brewer et al and Rockwell et al with the feature of the light emitting diodes as taught by Nova et al as both Brewer et al, Rockwell et al and Nova et al are directed to the programmable training device, so as to provide the light emitting diodes display indicator to the user.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Eggert et al (U.S. Pat. No. 5,853,292) - note Figs. 1-35;

Arand et al (U.S. Pat. No. 6,021,349) - note Figs. 1-7B;

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Hon (U.S. Pat. No. 6,074,213) - note Figs. 1-17;

Bardy et al (U.S. Pat. No. 6,108,578) - note Figs. 1-7;

Morgan et al (U.S. Pat. No. 6,154,673) - note Figs. 1-7;

Parker et al (U.S. Pat. No. 6,321,113 B1) - note Figs. 1-12;

Thu et al (U.S. Pat. No. 6,336,047 B1) - note Figs. 1-8;

Myklebust et al (U.S. Pat. No. 6,351,671 B1) - note Figs. 1-6;

Snyder et al (U.S. Pat. No. 6,370,428 B1) - note Figs. 1-8;

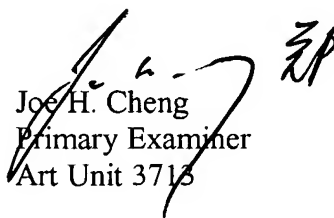
Eggert et al (U.S. Pat. No. 6,527,558 B1) - note Figs. 1a-23;

Parker et al (U.S. Pat. No. 6,668,192 B1) - note Figs. 1-5.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe H. Cheng whose telephone number is (571)272-4433. The examiner can normally be reached on Tue.- Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571)272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Joe H. Cheng
Primary Examiner
Art Unit 3713

Joe H. Cheng
January 7, 2005